



22 December 2000

## ICTY WEEKLY UPDATE – 153

***Please note: Weekly Update 154 will be issued on 5 January 2001***

### PROCEDURAL DEVELOPMENTS:

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#### **I. OVERVIEW OF COURT DOCUMENTS:**

##### **KRSTIĆ CASE (“SREBRENICA”)**

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###### ORDER FOR ADDITIONAL WITNESS TO APPEAR

On 15 December 2000, Trial Chamber I (Judges Rodrigues (Presiding), Riad and Wald), ordered General Enver Hadzihasanović to appear before the Trial Chamber on 1 February 2001 as a witness and called upon the competent authorities of Bosnia and Herzegovina to take all measures for his appearance.

The Trial Chamber issued the order *proprio motu* pursuant to Rule 98 of the Tribunal's Rules of Procedure and Evidence, considering that “*in order to establish the truth about the crimes ascribed to the accused, it is imperative to summon a witness able to provide the Trial Chamber with more specific information as to the presence and role of the 28<sup>th</sup> Division of the Army of the Republic of Bosnia-Herzegovina just before, during and just after the attack upon it by the Serbian forces in July 1995 and as to the column of persons seeking to leave the Srebrenica enclave at the time of the attack including: its composition, the arms carried by it, the experiences of the column in military terms and, in particular, the possible meeting up with an operation conducted by the Bosnian forces from Tuzla (and more generally from the territories controlled by these forces), the possible breakthroughs made by the column and the number of people concerned, the losses suffered by the column, the moments (exact as possible) at which the authorities and the population became aware of the capture and, then, the execution or sudden disappearance of members of the column, and, generally, the circumstances surrounding the seizure of the Srebrenica enclave as lived through by the Bosnian Muslim civilian and military authorities as the time of the facts*”.

A similar order was also issued to General Halilović (see Weekly Update 152).

##### **TODOROVIĆ CASE (“BOSANSKI ŠAMAC”)**

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###### HEARING ON GUILTY PLEA RESCHEDULED

On 15 December 2000, Trial Chamber III (Judges Robinson (Presiding), Hunt and Bennouna) ordered that the hearing to determine whether the matters set forth in Rule 62 *bis* with regard to the guilty plea entered by Todorović on 13 December 2000 are satisfied (see Weekly Update 152) and to enter a finding of guilt, if it is so satisfied, will take place on **19 January 2001 at 10 a.m.** rather than 12 January 2001 as previously ordered.

The parties have been ordered to submit a brief setting out the full factual basis for the Count to which Todorović has pleaded guilty, including the participation of the accused in the crimes and witness statements by 5 January 2001.

###### SCHEDULING ORDER ISSUED BY APPEALS CHAMBER

On 18 December 2000, the Appeals Chamber (Judges Shahabuddeen (Presiding), Vohrah, Nieto-Navia, Wald and Pocar), considering the plea entered by Todorović on 13 December 2000 before Trial Chamber III (see above) cancelled the oral hearing fixed for 10 January 2001 on the requests for review of the Trial Chamber's decision dated 18 October 2000 (see Weekly Update 144).

In addition, the Appeals Chamber gave liberty to the relevant States and NATO, the Prosecutor and the co-accused to submit briefs as to the effect of Todorović's plea on the continuance of the proceedings relating to the requests for review by 3 January 2001.

**KVOČKA, KOS, RADIĆ, ŽIGIĆ & PRCAĆ CASE (“OMARSKA & KERATERM CAMPS”)**

MOTIONS FOR JUDGEMENT OF ACQUITTAL GRANTED IN PART

On 15 December 2000, Trial Chamber I (Judges Rodrigues (Presiding), Riad and Wald) issued its decision on the motions for judgement of acquittal filed by the accused Kos, Radić, Žigić and Prcać on 6 November 2000.

In the motions, Kos, Žigić and Prcać requested a judgement of total acquittal pursuant to Rule 98bis of the Tribunal’s Rules of Procedure and Evidence. Radić requested a partial acquittal, not challenging allegations contained in counts 14-17. Kvočka, who is charged with the same offences as Prcać, did not file a motion for acquittal.

The Trial Chamber first found that, in line with prior decisions, it may enter a judgement of acquittal not only with regard to an entire count of the indictment, but also with regard to a factual incident or event cited in the indictment in support of the offence, if a reasonable trier of fact could not, “*upon the evidence presented by the Prosecutor on that particular incident, taken together with all reasonable inferences and applicable legal presumption and theories that might be applied to it*”, convict the accused.

The Trial Chamber then, on the basis of this standard:

(1) entered a judgement of acquittal in favour of the accused Kvočka, Kos, Radić and Prcać on those parts of the indictment which concern the Keraterm and Trnopolje camps, noting that no evidence had been presented as to any role of the accused in these camps and that the list of victims of Kvočka, Kos, Radić and Prcać concern only prisoners confined in the Omarska camp;

(2) entered a judgement of acquittal in favour of the accused Kvočka, Kos, Radić, Žigić and Prcać on those parts of the indictment which concerned nine individuals named in a confidential annex to the decision; and

(3) entered a judgement of acquittal in favour of Žigić on those parts of the indictment which concerned 10 individuals named in a confidential annex to the decision relating to counts 1-3 and 11-14 of the amended indictment, and regarding the allegation of forced fellatio as far as it concerns the other victims mentioned in counts 6-7 and 11-14 of the amended indictment.

The Trial Chamber otherwise dismissed the motions for acquittal.

**PRESS RELEASES ISSUED SINCE 15 DECEMBER:**

DATE	NUMBER	TITLE	E	F	B/C/S
20/12/2000	550	STATEMENT TO THE PRESS BY CARLA DEL PONTE, PROSECUTOR OF THE ICTY AND ICTR	E		B/C/S

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